

Planning/Zoning, Land Design & Development Meeting
Tuesday, July 21, 2009
2:00 P.M.
Third Floor, City Hall

Present: **Chair:** **CM Owen**
 Vice Chair: **CM Stuckel**
 Members: **CM Ward-Pugh, CM Jon Ackerson, CM Hamilton and CM Heiner**

Also Present:

Chairman Owen began the meeting by introducing the members and non-members of the committee that were present. A quorum was established.

R-121-07-09 A RESOLUTION REQUESTING THE LOUISVILLE METRO PLANNING COMMISSION TO HOLD A PUBLIC HEARING AND MAKE A RECOMMENDATION ON A REQUEST TO CHANGE THE NAME OF 34TH STREET, FROM ITS INTERSECTION WITH BROADWAY RUNNING SOUTHWARD TO ITS INTERSECTION WITH ALGONQUIN PARKWAY, TO LOUIS COLEMAN, JR. BOULEVARD.

Status: In-Committee
Committee: Planning/Zoning, Land Design & Development
Primary Sponsor: Judy Green

O-94-06-09 AN ORDINANCE AMENDING SECTION 32.253 OF THE LOUISVILLE/JEFFERSON COUNTY METRO CODE OF ORDINANCES, AND ADDING SECTION 32.263 CONCERNING APPEALS.

Status: In-Committee
Committee: Planning/Zoning, Land Design & Development
Primary Sponsor: Tom Owen

Motion to approve made by Tina Ward-Pugh and seconded by Glen Stuckel.

Discussion: Theresa Senninger, Assistant County Attorney, spoke to the item. She stated the Commission had several concerns as follows:

- How appeals from staff level positions will be handled
- Should the scope of standing be narrowed
- Potential to draw out the process

The following was also discussed:

- Time limits to filing an appeal - 30 days
- The appeals process
- Statute of Limitations
- Creating a process that creates a right to appeal where none exists
- Appealing by interested parties instead of just applicants
- Liabilities
- Standard of review in an appeal

Bob Griffith, President of Preservation Louisville Inc., Steve Porter, Open Louisville Inc., and John Downard, President of the Cherokee Triangle Association, spoke regarding the 30 day statute of limitations relating to the Appeal process.

Motion to Amend the following made by Tina Ward-Pugh and seconded by Cheri Bryant Hamilton:

- Amendment of the Title
- Amendment of 32.257 – Application for Certificate of Appropriateness – (K)
- Amendment of 32.253 – Architectural Review Committee – (E)
- Adding Section 32.263 – Appeals from the Commission
- Renumbering of sections

The Amendment passed.

Should appealing staff decisions be made by everyone or just the Applicant was also discussed?

Dave Marchal, Urban Design and Landmarks Supervisor, spoke regarding staff level recommendations, which are minor, and stated there is very seldom staff level recommendations that are denied and if that happens, it is sent to the Committee, which would then be able to be appealed.

John Ackerson motioned to Table the item. There was no second. The motion died.

Motion to further Amend 32.257 - Application for Certificate of Appropriateness - (K) made by Hal Heiner and seconded by Glen Stuckel.

The Amendment passed.

Motion to further Amend 32.257 - Application for Certificate of Appropriateness - (K) made by Tina Ward-Pugh and seconded by Glen Stuckel.

The Amendment passed.

The Amended version as follows was sent to **Old Business**.

AN ORDINANCE AMENDING SECTIONS 32.257 AND 32.253 OF THE LOUISVILLE/JEFFERSON COUNTY METRO CODE OF ORDINANCES, AND ADDING SECTION 32.263 CONCERNING APPEALS (AS AMENDED).

SPONSORED BY: Councilman Tom Owen

BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT (THE COUNCIL) AS FOLLOWS:

SECTION I: Section 32.253 of the Louisville/Jefferson County Metro Code of Ordinances (Code) is amended as follows:

§ 32.257 APPLICATION FOR CERTIFICATE OF APPROPRIATENESS.

(K) Any applicant, whose application is denied by the staff or a committee, and any person or entity claiming to be injured or aggrieved by any decision made by staff or a Committee, may appeal the decision to the Commission. The appeal shall be in writing and shall fully state the reasons why the appeal is sought. An appeal shall be filed ~~by an applicant~~ within 30 days of the date of the decision. Upon the receipt by the staff of a timely appeal, the staff shall schedule a meeting of the Commission to consider the appeal. Notice of the meeting shall be mailed to the applicant, the property owner, the appellant, and other parties of record, by first class mail, at least seven days prior to the date of the meeting. At the meeting to consider the appeal, the Commission shall review the application and the record of the prior proceedings and, at the discretion of the Chairman, may take additional testimony from the applicant, the property owner, appellant, or other interested parties for the purpose of supplementing the existing record or for the introduction of new information. Upon review of the record and any supplemental or new information presented at the meeting, the Commission shall make a written determination that the decision shall be upheld or overturned. A decision ~~denying an application of the staff or the Committee~~ shall be overturned by the Commission only upon the written finding that the staff or Committee was clearly

erroneous as to a material finding of fact ~~related to whether the proposed exterior alteration complied with the Guidelines. in concluding that the proposed exterior alteration was not in compliance with the guidelines.~~ When the Commission overturns a denial of an application, it shall approve the application, or approve the application with conditions. Any member of the Commission who voted on the application when it was considered by the Committee shall not vote on the question of whether the decision of the Committee shall be upheld or overturned.

SECTION II: Section 32.253 of the Code is amended as follows:

§ 32.253 ARCHITECTURAL REVIEW COMMITTEE.

(A) There is established for each District an Architectural Review Committee which shall have the powers and functions within such District as provided herein.

(B) There is established for the structures or properties designated as local landmarks an Architectural Review Committee which shall have the powers and functions with respect to local landmarks as provided herein.

(C) Each Committee shall consist of seven members, one of whom shall be the Director of the Department of Inspections, Permits and Licenses or his or her designee, two members shall be members of the Commission appointed by the Commission Chairperson and four members who shall be appointed by the Commission and approved by the Metro Council. In the case of a Committee established for a district, no fewer than two members shall be owner-residents or tenants within such district, one member shall be a real estate professional and one member shall be an architect and one member shall be the owner of income producing property located within the district. All members shall have a known interest in local landmarks districts preservation. Members appointed by the Commission shall serve at the pleasure of the Commission.

(D) Four members shall constitute a quorum of a Committee and the affirmative vote of three members or a majority of the members present, whichever is greater shall be required for any official action to be taken by the Committee.

(E) In the event a Committee is unable to obtain a quorum due to conflict of interest involving its members, or, in the case of the Director of the Department of Inspections, Permits and Licenses or his designee, a personal conflict of interest, the member(s) who are unable to participate due to the conflict of interest shall be replaced by special members to serve as members of the Committee for the case(s) giving rise to the conflict of interest in accordance with the qualifications and process set forth in paragraph (C) above.

SECTION III: Section 32.263 is hereby added to the Code, to read as follows:

32.263 APPEALS FROM THE COMMISSION

An appeal from the Commission shall be taken by ~~the applicant~~ any person or entity claiming to be injured or aggrieved by the final action of the Commission to the Jefferson Circuit Court within 30 days of the Commission's final action, which shall be defined as the date on which the Commission votes to approve or disapprove ~~on~~ the matter giving rise to the appeal. The property owner, applicant and the Commission shall be named as parties to the appeal.

SECTION ~~III~~ IV: This Ordinance shall take effect upon its passage and approval

Kathleen J. Herron
Metro Council Clerk

David W. Tandy
President of the Council

Jerry Abramson
Mayor

Approved: _____
Date

APPROVED AS TO FORM AND LEGALITY:

Michael J. O'Connell
Jefferson County Attorney

By: _____

VOTING RESULTS: For: 6; Against: 0; Abstain: 0; Absent: 1

For: Hal Heiner, Cheri Bryant Hamilton, Tom Owen, Glen Stuckel, Tina Ward-Pugh, Jon Ackerson

Against: (None)

Abstain: (None)

Absent: Madonna Flood

[O-97-06-09 AN ORDINANCE CLOSING A PARCEL OF REAL PROPERTY LOCATED AT 653 SOUTH FOURTH STREET, LOUISVILLE, KENTUCKY AND DESCRIBED IN EXHIBIT "A" HERETO AND LABELED LOT 1A \(THE "PROPERTY"\) THEREON AS A PUBLIC WAY.](#)

Status: In-Committee

Committee: Planning/Zoning, Land Design & Development

Primary Sponsor: David Tandy

Motion to Approve made by Tina Ward-Pugh and seconded by Glen Stuckel.

Discussion: John Wilmas, Assistant County Attorney, gave a brief history of this case. The following were items of discussion and concern:

- The owner wants to erect an outside elevator.
- The property has been researched and the title can be insured
- Adjacent property owners are in agreement
- Problems with cars jumping the curb and parking illegally on this strip of land
- Access

This item was sent to the **Consent Calendar**.

VOTING RESULTS: For: 6; Against: 0; Abstain: 0; Absent: 1

For: Hal Heiner, Cheri Bryant Hamilton, Tom Owen, Glen Stuckel, Tina Ward-Pugh, Jon Ackerson

Against: (None)

Abstain: (None)

Absent: Madonna Flood

[O-106-07-09 AN ORDINANCE CLOSING AN UNNAMED 8-FOOT-WIDE ALLEY RUNNING 133.08 FEET ALONG THE SOUTH BOUNDARY OF 653 S. 4TH STREET, LOCATED ON THE EAST SIDE OF S. 4TH STREET, 347 FEET SOUTH OF CHESTNUT STREET, CONTAINING 1064.64 SQUARE FEET, AND BEING IN LOUISVILLE METRO \(CASE NO. 12273\).](#)

Status: In-Committee

Committee: Planning/Zoning, Land Design & Development

Primary Sponsor: Tom Owen

Motion to Approve made by Tina Ward-Pugh and seconded by Glen Stuckel.

Discussion: Dawn Warrick, DPDS, spoke to the item giving a brief history of the case. This was on the Planning Commission Consent Agenda on May 21, 2009. No one spoke in opposition. The Commission approved the request and made recommendation for approval by the Metro Council. This is in Councilman Unseld's District. A power point presentation was given. The following were items of discussion and concern:

- Dedicated public right-of-way to be closed so applicant can build an outside elevator.
- Reviewing agencies have no problems with the closing

This item was sent to the **Consent Calendar**.

VOTING RESULTS: For: 6; Against: 0; Abstain: 0; Absent: 1

For: Hal Heiner, Cheri Bryant Hamilton, Tom Owen, Glen Stuckel, Tina Ward-Pugh, Jon Ackerson

Against: (None)

Abstain: (None)

Absent: Madonna Flood

[O-108-07-09 AN ORDINANCE CLOSING AN UNNAMED, UNIMPROVED ALLEY, FROM ITS EAST INTERSECTION WITH 22ND STREET, 100 FEET NORTH OF MADISON STREET, RUNNING EASTERLY 120 FEET, TURNING NORTH 61.1 FEET, TURNING WEST 10 FEET, TURNING SOUTH 51.1 FEET, AND THEN RUNNING 110 FEET, BEING AN "L"-SHAPED PARCEL OF RIGHT-OF-WAY AND CONTAINING 1,710 SQUARE FEET, AND BEING IN LOUISVILLE METRO \(CASE NO. 12464\).](#)

Status: In-Committee
Committee: Planning/Zoning, Land Design & Development
Primary Sponsor: Tom Owen

Motion to approve made by Cheri Bryant Hamilton and seconded by John Ackerson.

Discussion: Dawn Warrick, DPDS, spoke to the item giving a brief history of the case. This was on the Planning Commission Consent Agenda on June 18, 2009. No one spoke in opposition. The Commission approved the request and made recommendation for approval by the Metro Council. This is in President Tandy's District. A power point presentation was given. The following were items of discussion and concern:

- Expansion of Church property
- Agency review, there were no objection nor by property owners

Dawn Warrick is to double check the Survey to make sure it is correct.

This item was sent to the **Consent Calendar**.

VOTING RESULTS: For: 6; Against: 0; Abstain: 0; Absent: 1

For: Hal Heiner, Cheri Bryant Hamilton, Tom Owen, Glen Stuckel, Tina Ward-Pugh, Jon Ackerson
Against: (None)
Abstain: (None)
Absent: Madonna Flood

[O-107-07-09 AN ORDINANCE CLOSING AN IRREGULARLY-SHAPED PARCEL OF RIGHT-OF-WAY CONSISTING OF BERGMAN STREET FROM ITS EAST INTERSECTION WITH PRESTON STREET, 165.75 FEET SOUTH OF JACKSON STREET, RUNNING NORTHEASTERLY 178.28 FEET AND TURNING NORTH INTO A 20-FOOT-WIDE UNNAMED ALLEY, AND SAID 20-FOOT-WIDE UNNAMED ALLEY, RUNNING 170.39 FEET, CONTAINING 15,063 SQUARE FEET, BOTH OF WHICH BEING IN LOUISVILLE METRO \(CASE NO. 11873\).](#)

Status: In-Committee
Committee: Planning/Zoning, Land Design & Development
Primary Sponsor: Tom Owen

Motion to approve made by Cheri Bryant Hamilton and seconded by Hal Heiner.

Discussion: Dawn Warrick, DPDS, spoke to the item giving a brief history of the case. This was on the Planning Commission Consent Agenda on June 18, 2009. No one spoke in opposition. The Commission approved the request and made recommendation for approval by the Metro Council. This is in President Tandy's District. A power point presentation was given. The following were items of discussion and concern:

- Applicant wants to increase parking
- All property owners agreed

This item was sent to the **Consent Calendar**.

VOTING RESULTS: For: 5; Against: 0; Abstain: 0; Absent: 2

For: Hal Heiner, Cheri Bryant Hamilton, Tom Owen, Glen Stuckel, Tina Ward-Pugh
Against: (None)
Abstain: (None)

Absent: Madonna Flood, Jon Ackerson

[O-109-07-09 AN ORDINANCE CHANGING THE FORM DISTRICT FROM NEIGHBORHOOD, TRADITIONAL NEIGHBORHOOD AND TRADITIONAL MARKETPLACE CORRIDOR TO TRADITIONAL NEIGHBORHOOD AND TRADITIONAL MARKETPLACE CORRIDOR ON 86.3 ACRES, AND CHANGING THE ZONING FROM R-5 SINGLE-FAMILY RESIDENTIAL TO R-4 SINGLE-FAMILY RESIDENTIAL ON 164.2 ACRES GENERALLY LOCATED WITHIN THE BOUNDARY CREATED BY SPEED AVENUE TO THE NORTH, CHEROKEE AND SENECA PARKS TO THE EAST, EASTERN AVENUE TO THE SOUTH, AND BARDSTOWN ROAD TO THE WEST, AND BEING IN LOUISVILLE METRO \(CASE NO. 12533\).](#)

Status: In-Committee
Committee: Planning/Zoning, Land Design & Development
Primary Sponsor: Tom Owen

Motion to Approve made by Glen Stuckel and seconded by Tina Ward-Pugh.

Discussion: Dawn Warrick, DPDS, spoke to the item. The Planning Commission hearing was held on June 18, 2009. No one spoke in opposition. The Commission approved the request and made recommendation for approval by the Metro Council. This is in CM Owen's District. A power point presentation was given. The following were items of discussion and concern:

- Implementation of one of the recommendations of the Highlands Douglass Neighborhood Plan that was adopted in 2006
- Adjustments to Zoning and Form Districts
- Better reflect current development patterns and usage
- Several areas do not match current designation
- Statistics for change
- No permits or applications are in process for this area
- Notices were given to property owners and informational meetings were held regarding the area wide change before the public hearings were even held

This item was sent to **Old Business**.

VOTING RESULTS: For: 6; Against: 0; Abstain: 0; Absent: 1

For: Hal Heiner, Cheri Bryant Hamilton, Tom Owen, Glen Stuckel, Tina Ward-Pugh, Jon Ackerson
Against: (None)
Abstain: (None)
Absent: Madonna Flood

[O-105-07-09 AN ORDINANCE CHANGING THE ZONING FROM R-4 SINGLE-FAMILY RESIDENTIAL TO R-6 MULTI-FAMILY RESIDENTIAL AND FROM R-4 SINGLE-FAMILY RESIDENTIAL TO R-7 MULTI-FAMILY RESIDENTIAL ON PROPERTY LOCATED AT 7401 ASHBY LANE, CONSISTING OF TWO TRACTS, TRACT ONE CONTAINING A TOTAL OF 8.91 ACRES, AND TRACT 2 CONTAINING A TOTAL OF 12.72 ACRES, AND BEING IN LOUISVILLE METRO \(CASE NO. 11704\).](#)

Status: In-Committee
Committee: Planning/Zoning, Land Design & Development
Primary Sponsor: Tom Owen

CM Hamilton left at 3:30 p.m.

Motion to approve made by Tina Ward-Pugh and seconded by Jon Ackerson.

Discussion: Dawn Warrick, DPDS, spoke to the item. The Planning Commission hearing was held on June 4, 2009. Five spoke in opposition. The Commission approved the request and made recommendation for approval by the Metro Council. This is in CM Henderson's District. A power point presentation was given. The following were items of discussion and concern:

- Proposal is for an apartment development

- Density
- 140 units on Tract 1
- 244 units on Tract 2
- Will be a gated apartment complex
- Access will be off Ashby Lane
- Scenic corridor buffer
- Retention on sight
- Pedestrian access circulating around the entire properties
- Connection to the Levee Trail
- Landscaping
- Traffic
- Compatibility
- Connectivity to Lower River Road
- Applicants are to do road improvements to Lower River Road and Ashby Lane

CM Ackerson left at 3:40 p.m.

This item was sent to **Old Business**.

VOTING RESULTS: For: 4; Against: 0; Abstain: 0; Absent: 3

For: Hal Heiner, Tom Owen, Glen Stuckel, Tina Ward-Pugh

Against: (None)

Abstain: (None)

Absent: Madonna Flood, Cheri Bryant Hamilton, Jon Ackerson

[O-104-07-09 AN ORDINANCE CHANGING THE ZONING FROM R-5 SINGLE-FAMILY RESIDENTIAL TO C-1 COMMERCIAL ON PROPERTY LOCATED AT 5300 PRESTON HIGHWAY AND 2814 PARK BROOK LANE, CONTAINING A TOTAL OF 1.1 ACRES, OF WHICH 472 SQUARE FEET ARE REQUESTED TO BE REZONED, AND BEING IN LOUISVILLE METRO \(CASE NO. 11209\).](#)

Status: In-Committee
Committee: Planning/Zoning, Land Design & Development
Primary Sponsor: Tom Owen

Motion to Approve made by Glen Stuckel and seconded by Tina Ward-Pugh.

Discussion: Dawn Warrick, DPDS, spoke to the item. The Planning Commission hearing was held on June 4, 2009. No one spoke in opposition. The Commission approved the request and made recommendation for approval by the Metro Council. This is in CM Johnson's District. A power point presentation was given. The following were items of discussion and concern:

- Chang is to accommodate a new building
- Parking
- Position of Building
- Access
- Landscaping and buffering

This item was sent to **Old Business**.

VOTING RESULTS: For: 4; Against: 0; Abstain: 0; Absent: 3

For: Hal Heiner, Tom Owen, Glen Stuckel, Tina Ward-Pugh

Against: (None)

Abstain: (None)

Absent: Madonna Flood, Cheri Bryant Hamilton, Jon Ackerson

[O-111-07-09 AN ORDINANCE AMENDING APPENDICES C AND D OF CHAPTER 162 OF THE LOUISVILLE METRO CODE OF ORDINANCES, PERTAINING TO OVERLAY DISTRICTS, TO](#)

[ADOPT A REVISED AND UPDATED CHARACTER AND GOALS STATEMENT AND GUIDELINES FOR THE DOWNTOWN OVERLAY DISTRICT.](#)

Status: In-Committee
Committee: Planning/Zoning, Land Design & Development
Primary Sponsor: David Tandy

Discussion: This item was **Held in Committee.**

[R-101-06-09 A RESOLUTION DIRECTING THE PLANNING COMMISSION TO HOLD A PUBLIC HEARING AND MAKE A RECOMMENDATION TO THE COUNCIL ON AN AMENDMENT TO SECTION 4.4.1 OF THE LAND DEVELOPMENT CODE CONCERNING PORTABLE STORAGE DEVICES.](#)

Status: In Committee - Tabled
Committee: Planning/Zoning, Land Design & Development
Primary Sponsor: James Peden

Discussion: This item was **Held in Committee.**

Motion to adjourn made by Hal Heiner. Without objection the meeting adjourned at 3:55 P.M.

***NOTE: Items sent to the Consent Calendar or Old Business will be heard before the full Council at the Metro Council Meeting on July 30, 2009.**

KQG